

**MINUTES OF THE
LAKE COUNTY PLANNING COMMISSION
May 26, 2009**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Vice Chair Pesec called the meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Brotzman, Klco (alt. for Troy), Morse, Schaedlich, Smith (alt. for Sines), Zondag and Mmes. Hausch and Pesec. Staff present: Messrs. Boyd, Radachy, and Ms. Truesdell.

MINUTES

Mr. Schaedlich moved and Ms. Hausch seconded the motion to approve the April, 2009 minutes.

All voted "Aye".

FINANCIAL REPORT

Mr. Boyd said we received \$3,000.00 for the Lane Road project and \$3,000.00 is expected from Eastlake upon approval of their plan and \$5,000.00 from Mentor. After reviewing line items with Ms. Truesdell, it was decided to have the Information Technology Department support only those computers used by the four employees and an additional one for GIS. Additional computers can be put back in service as the need arises.

Mr. Morse moved for approval of the April, 2009 Financial Report and Mr. Brotzman seconded the motion.

All voted "Aye".

PUBLIC COMMENT

There was no comment from the public.

LEGAL REPORT

Mr. Condon, Assistant Prosecutor, said there were no legal issues to report.

DIRECTOR'S REPORT

Mr. Boyd said the Subdivision Regulations were recorded on April 29th. Eric Condon has enlisted the help of a staff intern to advise us on any updates needed in our By-laws and personnel policy. Ms. Myers is in the process of reconstructing the website.

ANNOUCEMENTS

Coastal Plan Committee Special Meeting, Tuesday, June 2, 2009, 6:00 p.m., Fairport Harbor Senior / Community Center

Melinda Huntley of *OSU Sea Grant Extension, Tourism Program and Lake Erie Coastal Ohio Trail* and Robert Amjad of *Hemisphere Corp.*, developer of the 1,100 acres of mixed-use waterfront development in Fairport Harbor, Painesville Township and Painesville City will address the subject of the Lake Erie coastline as a natural resource and the ability to generate recreational, tourism and economic development activities for the region.

NE Ohio Planning & Zoning Workshop, Friday, June 5, 2009, 8:00 a.m., Holiday Inn - LaMalfa, Mentor

Mr. Radachy said there are 103 registrants and 30 speakers for the workshop sponsored by the Ohio Planning Conference, Cleveland.

SUBDIVISION REVIEW

Concord Township – Cambden Creek, Phase 2, Re-submitted Final Plat, 27 Lots

Bordered by Colburn Road on the south, Girdled Road on the north and located east of Route 44, the Cambden Creek Subdivision plat was resubmitted for approval because of the change in ownership to Lake Properties LTD. David Novak of Barrington Consultants Group acts as their agent. After a review of the stipulations placed on the plat in 2005, all of them were fulfilled. They only needed to put a record number on the final plat of the existing sewer easement.

Final Plat Stipulations:

1. Sanitary sewer and water easements used to service this subdivision shall be shown on the plat with the record numbers shown. *Article III, Section 6(D)(1)(i)*

Final Plat Comments:

2. No deficiencies with plat relative to water and sanitary sewers. *L. C. Utilities Dept.*
3. No deficiencies or concerns. *Concord Twp. Trustees*
4. There are some very serious deficiencies in the construction of Phase 1 of this subdivision which I understand is also owned by the same new owner. While the new owner may not have been directly involved in the construction of Phase 1, he should still be responsible for the deficiencies that exist. Since the maintenance bond for Phase 1 will expire on June 15, 2009 and it is unlikely that adequate funds will be available to repair the deficiencies that exist, I recommend that approval of Phase 2 be delayed until we are assured that the deficiencies that exist in Phase 1 are corrected. *Concord Twp. Service Dept*

Staff Recommendation:

Approve with one stipulation and three comments

Mr. Radachy said that a branch of Ellison Creek, which is the same stream that goes through Orchard Springs, runs through Cambden Creek, Phase 2. At that time they used 3-sided box culverts. The stream will end up in open space and will be owned by the homeowner's association.

Sublot 37 has a local riparian easement defined by the legal description on the plat. It is to protect a wetland area.

Concord Township was concerned that the first phase had some deficiencies, so they are requesting us to hold approval on the second phase. Lake Properties LTD purchased 14-15 sublots of the first phase, built by Paul D'Amico, and bought the land for the second phase. The new owners have no obligation over the first phase because Mr. D'Amico was the developer of record. These are two separate projects.

Dave Novak said that they will bring the deficiencies up to the county standards which may not be Concord Township's standards.

Mr. Radachy interjected that the Planning Commission, County Engineer, and the Prosecutor will be discussing a process of how to handle the maintenance bonds in the future to avoid situations similar to Phase 1. Part of the process will be to inform the developers with a

six-month written warning that the bond will expire with a punch list attached. Usually, the County Commissioners accept the bonds and they are seldom, if ever, taken.

Mr. Radachy said that this was not a problem prior to this economy because the developer had an easier time getting credit. Now the developers' money is tight and they are reluctant to send contractors out to fix the road.

Mr. Condon said that it is smart to give them a warning when their bonds are due and it is important to apply this warning evenly to all bond holders.

Mr. Radachy said there have been no changes to this plat but since there is a new owner, the signatures need to be updated.

Mr. Schaedlich moved to approve the Cambden Creek, Phase 2, Re-submitted Final Plat, with 27 Lots and one stipulation. Mr. Adams seconded the motion.

All voted "Aye".

Subdivision Activity Report

Mr. Radachy said the Crossroads of Summerwood Subdivision, also known as Summerwood Phase 5, will have the extension to their preliminary plan expire June 30, 2009. The preliminary plan expires on June 30, 2009 for Eagle Creek Subdivision on Girdled Road. They have been sent written notices.

LAND USE AND ZONING REVIEW

Madison Township- District Change A-1, Agriculture and M-1, Industrial to S-1, Special Green Area

Mr. Radachy stated that this was a request for a change from A-1, Agriculture and M-1, Industrial to S-1 Special District. This request was initiated by Mark Mackovjak and is on over 100 acres of land. Mr. Mackovjak is renting the building out to someone who is restoring vehicles and storing telephone poles on the property. The zoning map and the land use map show that this is in a mostly residential area. In the recently adopted comprehensive plan, this area was designated as a rural residential area and a lot size was to be between 0.75 of an acre to 2 acres acting as a transition between the smaller lots on Dayton Road and the larger lots in Perry Township. There are no sewer lines in the area so the M-1 was never developed.

Mr. Radachy said that the S-1 District is designed as a protection/recreation district, not a commercial/recreation district. The purpose statement for the S-1 district was to protect wildlife preserves, scenic waterways, wooded areas, and other natural or manmade areas which will enhance the environmental atmosphere of residents and visitors to Madison Township. The one proposed use, fishing lake, can be done as a conditional use under M-1, but cannot be done under S-1; and the other proposed use, recreation fields, can be done as a permitted use under S-1, but cannot be done as a use under M-1.

There were two types of S-1 Districts: the Grand River S-1 and Basic S-1 Districts. The Grand River S-1 is designed to protect the river by using 500-foot buffers that increase lot size and limit activities such as logging. The Basic S-1 is used to protect natural resources and provide recreation. Currently, the land along the Grand River is zoned Grand River S-1 and the Stanton Park land is zoned Basic S-1.

The Land Use and Zoning Committee recommended denying the text change because the property is meant to be residential, not recreational. The S-1 District was to be more of a preservation/recreation district with the emphasis on preservation. What is proposed is more recreational and goes beyond what S-1 was designed to do. Staff recommended not accepting the zoning district change because it does not conform to the Comprehensive Plan. If the owner wishes this use, then he should consider creating a new commercial/recreation district or pursue

it by using the existing zoning and the associated conditional use permit process.

Mr. Brotzman said that they were trying to transition Madison Township to Perry Township with larger lots and open space and he did not think M-1 was the most appropriate zone.

Mr. Radachy said Madison Township just adopted a new comprehensive plan last month. This plan does not automatically change zoning. A zoning change of this property would be a whole new process done by the Township. The zoning as it stands does not address parking, traffic flow, concession stands or rest room facilities that would be in a commercial/recreational zone.

Mr. Zondag said he would like the applicant to understand what his alternatives are.

Mr. Adams moved to accept the recommendation of the Land Use and Zoning Committee to deny the District Change A-1, Agriculture and M-1, Industrial to S-1, Special Green Area in Madison Township with an explanation of why we are taking this action and a strong recommendation to come up with a new commercial/recreational zoning district. Mr. Zondag seconded the motion.

All voted "Aye".

Madison Township- District Change P-1, Professional Office to R-4, Multiple Dwelling

Mr. Radachy said that this was a requested district change from P-1, Professional to R-4, Multiple Dwelling and was initiated by Malcolm and Cindy Reed and is on one-third (1/3) of an acre of land. Per the application, the Reeds would like to use the house as a single-family residence.

The land is zoned P-1, the property next door is zoned P-1, and the land behind the lot is zoned R-4. The land across the street is zoned R-2. The area is a mixture of single-family and multi-family. According to the 2009 Comprehensive Plan land use map, this area is designated to be an R-2 area.

Section 109.1, Use Regulations, stated that a building or premises shall be used only for the following purposes: 109.1.1, The use regulations for any R-4 zoned area as of January 1st, 1996 may include the uses permitted within the R-1, R-2, and R-3 Single-Family District. The R-4 was the wrong zoning district for single-family zoning. The owners would not be allowed to use the house as a single-family in an R-4 district as proposed.

Mr. Radachy said the house was vacant and that the land was rezoned to P-1 to allow for an HR Block office that closed 5 years ago. Staff is recommending that the proposed district not be accepted because it is not in conformance with the 2009 Comprehensive Plan.

The Land Use and Zoning Committee voted to not recommend the district change.

Mr. Schaedlich moved to accept the recommendation of the Land Use and Zoning Committee to not recommend the rezoning of P-1, Professional Office to R-4, Multiple Dwelling in Madison Township. Mr. Smith seconded the motion.

All voted "Aye".

Leroy Township Text Amendment Section 15

This zoning case was initiated by the Leroy Township Zoning Commission. They are revising Section 15 of the Zoning Resolution.

- Adding a new purpose statement to Chapter 15.
- Dividing the permitted uses and conditional uses into two separate sections.

- The language for Section 15.01, 2, “A dwelling shall be deemed a permanent building other than an accessory building or garage, with complete living facilities, designed, intended and built to be occupied by not more than two (2) families living independently of each other. “Trailer coaches shall not be used for residential purposes” has been removed from the text.
- Mining or surface extraction of gravel or other earth material has been added as a conditional use.
- Table has been added for the lot development and building standards replacing the old language of Sections 15.03 through 15.10.
- Section 15.06, Lots Established Prior to Zoning, and Section 15.07, Site Considerations, are new sections with new language.
- Section 15.11, Screening and Landscaping has been moved up to Section 15.09 and Section 15.12, Parking, has been moved up to Section 15.10.

One of the goals of the 2005 Leroy Comprehensive Plan was to write and adopt a new Zoning Resolution. Many of the proposed changes that were presented are revisions to make it a user-friendly code.

Mining or surface extraction of gravel or other earth material is being added as a conditional use, but there are no conditions listed in Chapter 14. There are conditions that have to be followed that are spelled out in the ORC 519.

Staff recommended that:

- The language for Section 15.01, 2 is a definition for dwelling. This definition should be kept in the Leroy Township Zoning Resolution, possibly in the Definition Section.
- Accessory buildings should be a separate section from section accessory uses. Accessory building standards, building size, number of buildings, etc. could be added as a chart.
- A lot that has frontage on a cul-de-sac should be defined. Are there lots on the cul-de-sac bulb, lots that have 75% of their frontage on a cul-de-sac bulb or any lot that is on a street that has a cul-de-sac at the end of it?
- Conditions need to be added for mining or surface extraction of gravel as a conditional use. These conditions shall be in conformance with ORC 519.141.
- Riparian setbacks have been added to the Leroy Township Zoning Resolution as Section 31. A reference should be made to Section 31 in Section 15.07, Site Consideration.

Besides some formatting issues, the Land Use and Zoning Committee recommended approval, with staff’s suggestions, of the text changes provided they retain the definition of dwelling unit.

Mr. Schaedlich moved and Mr. Morse seconded the motion to accept the recommendation of the Land Use and Zoning Committee and recommend approval of the Leroy Township Text Amendment Section 15 with staff’s suggestions.

All voted “Aye”.

Leroy Township Text Amendment Section 16

This zoning case was initiated by the Leroy Township Zoning Commission. They are revising three sections in Section 16 of the Zoning Resolution:

- Section 16.04 1 D has been added. It states that “no traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.”
- The language “Grown or produced on the premises” is being removed.

- The amount of land needed to have an accessory building not to exceed 2,000 square feet is being reduced from three acres to two acres. This means any lot two acres and under is limited to having less than 2,000 square feet in accessory structures.

Staff stated that one of the goals of the 2005 Leroy Comprehensive Plan was to write and adopt a new Zoning Resolution. Many of the proposed changes presented are revisions to make the Zoning Resolution a more user-friendly code and consistent with Section 15.

Staff stated that ORC 519.21 C states *“such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in Section 519.02 of the Revised Code, may regulate such factors pertaining to farm markets such as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety”*. “Grown or produced on the premises” was not in conformance with this law because the old rule required all the product to be grown on site.

Staff also stated that the average trip per day per dwelling unit is 9.71. For a 10 dwelling unit subdivision, there would be 99.71 trips per day of the residents of the subdivision. Any home occupation will increase the traffic of the neighborhood. Having a rule like this could pit neighbor against neighbor and possibly pull the Township into the fight because they could claim the township was not enforcing the zoning to the letter of the law. But, this rule could also give the Township a tool to force home occupation out of the neighborhoods when they outgrow the homes.

Board members suggested that they strike this language because there is no way to enforce what is reasonable and that they find a model for this text.

Staff recommended:

- The three text changes in this amendment.
- The Township should explore how much was a reasonable amount of traffic a home occupation could generate.

The Land Use and Zoning Committee recommended approval of the text changes with staff’s suggestions.

Mr. Schaedlich moved to accept the recommendation of the Land Use and Zoning Committee but recommended to not include any language regarding what is a reasonable amount of traffic. Mr. Klco seconded the motion.

Mr. Boyd suggested they may want to do this in the R-1 also.

Mr. Schaedlich amended his motion to accept the recommendation of the Land Use and Zoning Committee with three text changes but recommended to not include any language regarding what is a reasonable amount of traffic for a home occupation and recommend review of similar language in the R-1 zone. Mr. Klco seconded the motion.

All voted “Aye”.

Leroy Township Text Amendment Section 32

This zoning case was initiated by the Leroy Township Zoning Commission. They are adding sections to Section 32, Design Standards. This section provides requirements for façade elements, building entrance elements, roof elements, shipping and receiving area elements, and color and lighting of buildings in non-residential districts. It also provides language on how these elements are to be reviewed.

Mr. Radachy said that one goal of the Comprehensive Plan was to create commercial and

retail districts to be attractive, inviting, convenient, and respectful of the rural character of the Township. To do this, the Township was to implement architectural design requirements for commercial uses in the Zoning Resolution which would be administered by the Township Zoning Commission during the site plan review process.

Mr. Radachy said that ORC 519.171 allows townships to set up an Architectural Review Board. Leroy will use the Zoning Commission in place of a separate Architectural Review Board. Everything proposed in this text amendment is in accordance with the Ohio Revised Code. The standards presented are based on the Concord Township Design Standards where a change to their (37.05 F) long wall section was recently made. They eliminated language that required walls that were exceeding 100 feet to have a change in depth of at least 3% of the entire length of the wall. Leroy Township is proposing the same language as in 32.04 C. Finally, there is no reference to which zoning districts would be required to use these regulations.

Mr. Boyd said that wall requirements in Concord were creating financial hardships on developers.

Staff recommended accepting the language as presented with two alterations. This conforms to the Comprehensive Plan.

- Elimination of the language of having a depth of at least a 3% change in projection or recesses in 32.04 C.
- Name the zoning district that would be required to have buildings adhere to design setbacks.

The Land Use and Zoning Committee recommended approving the text changes with staff's suggestions.

Mr. Morse moved and Ms. Hausch seconded the motion to accept the recommendation of the Land Use and Zoning Committee and recommend approving Leroy Township Text Amendment Section 32 with staff's recommendations.

All voted "Aye".

Land Use and Zoning Committee members: V. Urbanski and R. Morse

Mr. Radachy said that Mr. Vince Urbanski resigned his position on the Committee. Painesville Township requested that he be replaced by Mr. Richard Morse. The Prosecutor said that Mr. Morse can serve on both the Land Use and Zoning Committee and the Planning Commission without a conflict of interest. We have received a letter from Painesville Township stating that they would like Mr. Morse to be their representative on the Land Use and Zoning Committee.

REPORTS OF SPECIAL COMMITTEES

There were no reports of special committees.

CORRESPONDENCE

There was no correspondence.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. Boyd said that at last month's meeting the Planning Commission authorized a letter to Governor Strickland requesting that oil and gas regulations be revised to give authority back to the local governments. This letter went out to local public officials. After conferring with Mr. Siegel, Mr. Boyd said that the Planning Commission staff could host a conference with Tim Grendell to inform local government officials and interested citizens about the regulatory authority on oil and gas wells. A meeting will be planned in the near future. In the meantime, he will also elicit concerns of public officials from adjoining counties.

In addition to the letter that was sent from the Planning Commission, Ms. Pesec encouraged members to sign the letter as individuals. Ms. Pesec also requested Board members' support on the federal level by contacting their local officials. Letters prepared by NEOGAP, Northeast Ohio Gas Accountability Project, were made available.

Mr. Boyd expressed gratification for the additional work his staff did on new subdivision information forms in the handout and on the office in general.

The subject of wind energy was discussed and Mr. Boyd said that all the communities are working on zoning regulations for windmills.

PUBLIC COMMENT

There was no comment from the public.

ADJOURNMENT

Mr. Schaedlich moved and Mr. Zondag seconded the motion to adjourn the meeting.

All voted "Aye."

The meeting adjourned at 8:45 pm.

Walter R. Siegel, Chairman

Jason W. Boyd, Director/Secretary